

Notice of Allowability

Application No.

10/026,689

Examiner

N. Bhat

Applicant(s)

SAITO ET AL.

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the filing date and IDS of 12/27/2001.
2. ☒ The allowed claim(s) is/are 1-5.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the top margin (not the back) of each sheet. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1 <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 4 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____ |
| 5 <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. _____ | 6 <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other |

DETAILED ACTION

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

The application has been amended as follows:

In the Abstract:

Delete the abstract and insert the following:

--A powdered composition for food and drink comprising powdered soy protein isolate, anthocyanin and an organic acid composition is provided which is dissolved or suspended in water, milk, to provide a beverage which has a vivid reddish purple color characteristic of anthocyanin and which the anthocyanin is stabilized to maintain its various functions.--

2. The following is an examiner's statement of reasons for allowance:

The invention relates to a powdered composition which can be added to food or drinks comprising soy protein isolate, an anthocyanin-containing powder and an organic acid the composition is dissolved or suspended in water or milk which develops a vivid reddish purple color characteristic of the anthocyanin, the composition provides a stabilized anthocyanin containing food or drink. The powdered composition containing soy protein isolate, an anthocyanin containing powder and an organic acid has not been taught either singularly or in combination by the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Forusz et al. teach a method of administering a beverage composition for human consumption, which includes solubilized components of a calcium compound, organic acid, a soy isoflavones, inulin and a stabilizing agent. The composition can include flavors, which include orange, peach, cranberry, tangerine, etc. The beverage can include other vitamins, minerals and can be clear or translucent in color or can include F&DC colorants. The composition can also include sweeteners, and organic acids. There is no teaching in Forusz et al. to include an anthocyanin-containing powdered to the beverage, nor does Forusz et al. specifically teach providing a powdered composition which is readily dispersible or suspendable in water or milk comprising, soy protein isolate, an anthocyanin-containing powder and an organic acid. Hirschberg teaches method of infusing phytochemicals, nutraceuticals and other compositions into food products. The infused food products when consumed are helpful in alleviating dietary insufficiency and can be used for treating diseases. Hirschberg does not teach providing a powdered composition, which is readily dispersible or suspendable in water or milk comprising, soy protein isolate, an anthocyanin-containing powder and an organic acid. US2003/0104108 teach providing a ready to drink, shelf stable refreshing juice/soy beverage. US2003/0104108 does not teach or suggest

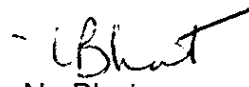
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providing a powdered composition, which is readily dispersible or suspendable in water or milk comprising, soy protein, isolate, an anthocyanin-containing powder and an organic acid. US2003/0104108 teaches providing phytochemicals from fruit and vegetable juices to provide a ready to drink beverage. The juice and soy beverages described includes soy protein isolate, citric acid, water, vitamins, masking flavors, beta carotene, can contain cranberry juice concentrate but does not teach providing a powdered drink composition which is suspendable or dispersible in water or milk which contains an anthocyanin-containing powder.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to N. Bhat whose telephone number is 703-308-3879. The examiner can normally be reached on Monday-Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5665.


N. Bhat
Primary Examiner
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